## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

U.S. BANK NATIONAL ASSOCIATION, : CIVIL ACTION

TRUSTEE, AS SUCCESSOR, IN INTEREST :

TO BANK OF AMERICA, NATIONAL

ASSOCIATION, AS SUCCESSOR BY : NO. 14-2333

MERGER TO LASALLE BANK NATIONAL:

ASSOCIATION, AS TRUSTEE FOR BEAR

STEARNS COMMERCIAL MORTGAGE :

SECURITIES INC., COMMERCIAL : MORTGAGE PASS-THROUGH :

CERTIFICATES, SERIES 2007-TOP26, :

Plaintiff, :

:

v. :

:

815 LIMITED PARTNERSHIP,

Defendant. :

## **MEMORANDUM**

BUCKWALTER, S. J. September 24, 2014

Plaintiff has filed a Renewed Motion for Appointment of Receiver, in which it has satisfied this court's concerns expressed in its Memorandum of June 25, 2014.

It is clear, despite Defendant's protestations to the contrary, that property provides inadequate security for the loan.

Secondly, it appears that there is merit to Plaintiff's argument, Defendant's counterargument notwithstanding, that Defendant has no clear explanation for its accounting failures concerning the remitting of net rentals from the property.

Finally, as argued by Plaintiff, Defendant is already in default under the loan agreement so that the appointment of a receiver, another breach of the loan agreement, is irrelevant.

As previously stated, Plaintiff has satisfied the previous concerns of this court, and Plaintiff's Renewed Motion for Appointment of a Receiver (Docket No. 17) is GRANTED.

An order follows.